

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION

CRIMINAL WRIT PETITION NO. 2820 OF 2005

Mahadev G. Thorat ..Petitioner

versus

State of Maharashtra & Ors. ..Respondents

Mr. S. P. Kadam for the Petitioner.

Mrs. A. S. Pai, APP for the Respondents - State.

CORAM : D. G. DESHPANDE, &
V. K. TAHILRAMANI, JJ.

DATE : 21ST MARCH, 2006

P.C. :

1. Heard counsel for the petitioner and learned APP for the State.

2. Rule, returnable forthwith.

3. This petition is filed for re-investigation in C.R. No. 74 of 2005 registered with Karad Taluka Police Station. The petitioner is a father of the victim girl. She died one year after the marriage by consuming some poisonous substance may be medicine or antibiotic. The charge sheet is filed under Sections 306 and 498A r/w. 34 of IPC against the in-laws including the husband.

4. Counsel for the petitioner points out that there is strong suspicious circumstance which can be seen from the investigation itself, is that even though as per the prosecution or the investigating agency, the deceased gave a dying declaration stating therein that as she was pregnant and unable to bear the pain she consumed medicine. The post mortem report does not show that she was pregnant at all. He also pointed out that none of the parents or her relatives from father's side were present and all the accused were only present when the so-called dying declaration was recorded. This circumstance alone is sufficient to order re-investigation.

5. The learned APP tried to contend that the charge sheet has already been filed. But, in the circumstances, we direct that the trial court will not proceed with the said case. C.R. No. 74 of 2005 is transferred to State, CID for investigation, and to file additional charge sheet, if any. They should complete it as early as possible.

6. Rule discharged accordingly.

(D.G. DESHPANDE, J.)

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(V.K. TAHILRAMANI, J.)